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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CURB MOBILITY, LLC,

Plaintiff,

v.

KAPTYN INC., TRIAD TRANSPORTATION  
TECHNOLOGIES, LLC, WHITTLESEA  
BLUE CAB COMPANY, INC. and DESERT  
CAB, INC.

Defendants.

Case No. 2:18-cv-02416-MMD-GWF

**STIPULATION AND ORDER  
REGARDING DISCOVERY OF  
ELECTRONICALLY STORED  
INFORMATION FOR PATENT  
LITIGATION**

Plaintiff Curb Mobility, LLC and Defendants Kaptyn Inc., Triad Transportation Technologies, LLC, Whittlesea Blue Cab Company, Inc., and Desert Cab, Inc. (collectively, the “Parties” and each individually, a “Party”) stipulate that (collectively, the “Parties” and each individually, a “Party”) stipulate to the entry of the following Order:

1           1.     This Order supplements all other discovery rules and orders. It  
2 streamlines Electronically Stored Information (“ESI”) production to promote a “just, speedy,  
3 and inexpensive determination of this action, as required by Federal Rule of Civil Procedure 1.”

4           2.     This Order may be modified in the Court’s discretion or by stipulation.

5           3.     As in all cases, costs may be shifted for disproportionate ESI production  
6 requests pursuant to Federal Rule of Civil Procedure 26. Likewise, a party’s nonresponsive or  
7 dilatory discovery tactics are cost-shifting considerations.

8           4.     A party’s meaningful compliance with this Order and efforts to promote  
9 efficiency and reduce costs will be considered in cost-shifting determinations.

10          5.     General ESI production requests under Federal Rules of Civil Procedure  
11 34 and 45 shall not include email or other forms of electronic correspondence (collectively  
12 “email”). To obtain email parties must propound specific email production requests.

13          6.     Email production requests shall only be propounded for specific issues,  
14 rather than general discovery of a product or business.

15          7.     Email production requests shall be phased to occur after the parties have  
16 exchanged initial disclosures and basic documentation about the patents, the prior art, the  
17 accused instrumentalities, and the relevant finances. While this provision does not require the  
18 production of such information, the Court encourages prompt and early production of this  
19 information to promote efficient and economical streamlining of the case.

20          8.     Email production requests shall identify the custodian, search terms, and  
21 time frame. The parties shall cooperate to identify the proper custodians, proper search terms  
22 and proper timeframe.

23          9.     Each requesting party shall limit its email production requests to a total of  
24 five custodians per producing party for all such requests. The parties may jointly agree to

1 modify this limit without the Court's leave. The Court shall consider contested requests for  
2 additional custodians, upon showing a distinct need based on the size, complexity, and issues of  
3 this specific case. Cost-shifting may be considered as part of any such request.

4           10. Each requesting party shall limit its email production requests to a total of  
5 five search terms per custodian per party. The parties may jointly agree to modify this limit  
6 without the Court's leave. The Court shall consider contested requests for additional search  
7 terms per custodian, upon showing a distinct need based on the size, complexity, and issues of  
8 this specific case. The Court encourages the parties to confer on a process to test the efficacy of  
9 the search terms. The search terms shall be narrowly tailored to particular issues. Indiscriminate  
10 terms, such as the producing company's name or its product name, are inappropriate unless  
11 combined with narrowing search criteria that sufficiently reduce the risk of overproduction. A  
12 conjunctive combination of multiple words or phrases (*e.g.*, "computer" and "system") narrows  
13 the search and shall count as a single search term. A disjunctive combination of multiple words  
14 or phrases (*e.g.*, "computer" or "system") broadens the search, and thus each word or phrase  
15 shall count as a separate search term unless they are variants of the same word. Use of  
16 narrowing search criteria (*e.g.*, "and," "but not," "w/x") is encouraged to limit the production  
17 and shall be considered when determining whether to shift costs for disproportionate discovery.  
18 Should a party serve email production requests with search terms beyond the limits agreed to by  
19 the parties or granted by the Court pursuant to this paragraph, this shall be considered in  
20 determining whether any party shall bear all reasonable costs caused by such additional  
21 discovery.

22           11. Nothing in this Order prevents the parties from agreeing to use  
23 technology assisted review and other techniques insofar as their use improves the efficacy of  
24 discovery.

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Desert Cab, Inc.

**ORDER**

IT IS SO ORDERED.

  
UNITED STATES MAGISTRATE JUDGE

DATED: 5/28/2019